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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/522,763

03/10/2000

Raymond Graj

838625/43

5785

7590

12/05/2006

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EXAMINER

SIMONE, TIMOTHY F

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/522,763

Applicant(s)

GRAJ ET AL.

Examiner

Timothy F. Simone

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1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-28 is/are allowed.
- 6) ☒ Claim(s) 29-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Reissue Application

The finality of the rejection of the last Office action, mailed May 16, 2003 is withdrawn in view of the newly discovered reference to Backich, et al. (US 5,716,087).

Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicant failed to clearly explain where there is support in the original disclosure of the patent for the changes that were proposed in claims 29-44 of the preliminary amendment, filed March 20, 2000, and the amendment to claims 29, 32, 38, 40 and 44, filed April 10, 2003. Figures 1-7 of the drawings clearly do not correspond to these newly submitted claims. This is a new matter rejection. See 37 CFR 1.173(c).

Claim Rejections - 35 USC § 251

Claims 29-44 are rejected under 35 U.S.C. 251 as being based upon new matter added to the patent for which reissue is sought. The added material which is not

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supported by the prior patent is as follows: Claims 29-44 do not correspond to Figures 1-7 of the original patent and there is no clear support in the original patent disclosure for the subject matter in these newly submitted claims. This is a new matter rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Caminos (US 5,774,937), Arsenault (US 3,372,510), Stewart (US 4,924,924) or Hoffman (US 5,529,357) in view of Backich, et al. (US 5,716,087). The patents to Caminos, Arsenault, Stewart and Hoffman disclose the basic structure and concept of applicant's claimed ergonomic handle for stabilized lifting, carrying and tilting of hand supported implements. For example, the patent to Caminos (U. S. Patent No. 5,774,937) shows in Figures 2-12 a handle adapter for use with a cooking utensil, which comprises an elongated body portion (arm 26) having a first end, which includes a forearm support (armrest 44) and a handgrip (referred to in the specification as 14 and shown in the drawings as 38). Regarding claim 30, note that the patent to Caminos states that the material of the handle adapter is preferably polymers and other plastics, which can withstand heat (see col. 7, lines 56-58). Also, the patent to Arsenault describes an ergonomic hand supported implement (i.e., a fishing rod) which includes a forearm support member (34) and a handle (28) which tilts in a direction of said hand

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supported implement at an angle less than substantially 90 degrees with respect to a horizontal plane that intersects the implement (see claim 40), as well as with respect to an axis defined by the user's forearm. Thus, as it is pointed out above, these patents disclose the claimed invention except for the hand supported implement defining a horizontal second axis wherein the second axis forms an angle with a first axis. The patent to Backich, et al. is cited to teach an ergonomic handle assembly (i.e. Fig. 4) wherein the hand supported implement is defining a horizontal second axis whereby the horizontal second axis forms an angle with a first axis. Thus, it would have obvious matter of design choice to have the hand supported implements of either one of Caminos, Arsenault, Stewart or Hoffman define a horizontal second axis wherein the horizontal second axis forms an angle with a first axis in the manner suggested by Backich, et al., since applicant has not disclosed that such a design choice solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well.

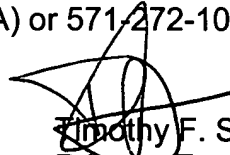
Allowable Subject Matter

Claims 1-28 are allowable over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy F. Simone whose telephone number is 571-272-1407. The examiner can normally be reached on weekdays between 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 521-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Timothy F. Simone
Primary Examiner
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